

Anarchism - 6488

REASONS FOR PARDONING

FIELDEN, NEEBE AND SCHWAB

BY

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GOVERNOR OF ILLINOIS.



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STATEMENT OF THE CASE.

On the night of May 4, 1886, a public meeting was held on Haymarket Square in Chicago; there were from 800 to 1,000 people present, nearly all being laboring men. There had been trouble, growing out of the effort to introduce an eight-hour day, resulting in some collisions with the police, in one of which several laboring people were killed, and this meeting was called as a protest against alleged police brutality.

The meeting was orderly and was attended by the mayor, who remained until the crowd began to disperse and then went away. As soon as Capt. John Bonfield, of the police department, learned that the mayor had gone, he took a detachment of police and hurried to the meeting for the purpose of dispersing the few that remained, and as the police approached the place of meeting a bomb was thrown by some unknown person, which exploded and wounded many and killed several policemen, among the latter being one Mathias Degan. A number of people were arrested and after a time August Spies, Albert R. Parsons, Louis Lingg, Michael

Schwab, Samuel Fielden, George Engle, Adolph Fischer and Oscar Neebe were indicted for the murder of Mathias Degan. The prosecution could not discover who had thrown the bomb and could not bring the really guilty man to justice, and, as some of the men indicted were not at the Haymarket meeting and had nothing to do with it, the prosecution was forced to proceed on the theory that the men indicted were guilty of murder because it was claimed they had at various times in the past uttered and printed incendiary and seditious language, practically advising the killing of policemen, of Pinkerton men and others acting in that capacity, and that they were therefore responsible for the murder of Mathias Degan. The public was greatly excited and after a prolonged trial all of the defendants were found guilty; Oscar Neebe was sentenced to fifteen years imprisonment and all of the other defendants were sentenced to be hanged. The case was carried to the supreme court and was there affirmed in the fall of 1887. Soon thereafter Lingg committed suicide. The sentence of Fielden and Schwab was commuted to imprisonment for life and Parsons, Fischer, Engle and Spies were hanged, and the petitioners now ask to have Neebe, Fielden and Schwab set at liberty.

The several thousand merchants, bankers, judges, lawyers and other prominent citizens of Chicago who have by petition, by letter and in other ways urged executive clemency, mostly base their appeal on the ground that, assuming the prisoners to be guilty, they have been punished enough, but a number of them who have examined the case more care-

fully, and are more familiar with the record and with the facts disclosed by the papers on file, base their appeal on entirely different grounds. They assert,

FIRST—That the jury which tried the case was a packed jury selected to convict.

SECOND—That according to the law as laid down by the supreme court, both prior to and again since the trial of this case, the jurors, according to their own answers, were not competent jurors and the trial was therefore not a legal trial.

THIRD—That the defendants were not proven to be guilty of the crime charged in the indictment.

FOURTH—That as to the defendant Neebe, the state's attorney had declared at the close of the evidence that there was no case against him, and yet he has been kept in prison all these years.

FIFTH—That the trial judge was either so prejudiced against the defendants, or else so determined to win the applause of a certain class in the community that he could not and did not grant a fair trial.

Upon the question of having been punished enough I will simply say that if the defendants had a fair trial, and nothing has developed since to show that they are not guilty of the crime charged in the indictment, then there ought to be no executive interference, for no punishment under our laws could then be too severe. Government must

defend itself; life and property must be protected and law and order must be maintained; murder must be punished, and if the defendants are guilty of murder, either committed with their own hands or by some one else acting on their advice, then, if they have had a fair trial, there should be in this case no executive interference. The soil of America is not adapted for the growth of anarchy. While our institutions are not free from injustice, they are still the best that have yet been devised, and therefore must be maintained.

Was the Jury Packed?

I.

The record of the trial shows that the jury in this case was not drawn in the manner that juries usually are drawn; that is, instead of having a number of names drawn out of a box that contained many hundred names, as the law contemplates shall be done in order to insure a fair jury and give neither side the advantage, the trial judge appointed one, Henry L. Ryce as a special bailiff to go out and summon such men as he, Ryce, might select to act as jurors. While this practice has been sustained in cases in which it did not appear that either side had been prejudiced thereby, it is always a dangerous practice, for it gives the bailiff absolute power to select a jury that will be favorable to one side or the other. Counsel for the state, in their printed brief, say that Ryce was appointed on motion of defendants. While it appears that counsel for defendants were in favor of having some one appointed, the record has this entry:

"Mr. Grinnell (the state's attorney) suggested Mr. Ryce as special bailiff and he was accepted and appointed." But it makes no difference on whose motion he was appointed if he did not select a fair jury. It is shown that he *boasted while selecting jurors that he was managing this case; that these fellows would hang as certain as death; that he was calling such men as the defendants would have to challenge peremptorily and waste their challenges on, and that when their challenges were exhausted they would have to take such men as the prosecution wanted.* It appears from the record of the trial that the defendants were obliged to exhaust all of their peremptory challenges and they had to take a jury, almost every member of which stated frankly that he was prejudiced against them. On page 133 of volume 1 of the record it appears that when the panel was about two-thirds full, counsel for defendants called the attention of the court to the fact that Ryce was summoning only prejudiced men, as shown by their examinations, further: That he was confining himself to particular classes, *i. e.*, clerks, merchants, manufacturers, etc. Counsel for defendants then moved the court to stop this and direct Ryce to summon the jurors from the body of the people, that is, from the community at large, and not from particular classes; but the court refused to take any notice of the matter.

For the purpose of still further showing the misconduct of bailiff Ryce reference is made to the affidavit of Otis S. Favor. Mr. Favor is one of the most reputable and honorable business men of Chicago; he was himself summoned by

Ryce as a juror, but was so prejudiced against the defendants that he had to be excused, and he abstained from making any affidavit before sentence because the state's attorney had requested him not to make it, although he stood ready to go into court and tell what he knew if the court wished him to do so, and he naturally supposed he would be sent for. But after the supreme court had passed on the case and some of the defendants were about to be hanged he felt that an injustice was being done and he made the following affidavit:

STATE OF ILLINOIS, }
COOK COUNTY. } ss.

Otis S. Favor, being duly sworn on oath says that he is a citizen of the United States and of the State of Illinois, residing in Chicago, and a merchant doing business at Nos. 6 and 8 Wabash avenue, in the city of Chicago, in said county. That he is very well acquainted with Henry L. Ryce of Cook county, Illinois, who acted as special bailiff in summoning jurors in the case of the People, etc., vs. Spies' et al., indictment for murder, tried in the criminal court of Cook county in the summer of 1886. That affiant was himself summoned by said Ryce for a juror in said cause, but was challenged and excused therein because of his prejudice. That on several occasions in conversation between affiant and said Ryce touching the summoning of the jurors by said Ryce, and while said Ryce was so acting as special bailiff as aforesaid, said Ryce said to this affiant and to other persons in affiant's presence, in substance and effect as follows, to-wit: "I (meaning said Ryce) am managing this case, (meaning this case against Spies et al) and know what I am about. Those fellows (meaning the defendants, Spies et al) are going to be hanged as certain as death. I am calling such men as the defendants will have to challenge peremptorily and waste their time and challenges. Then they will have to take such men as the prosecution wants." That affiant has been very reluctant to make any affidavit in this case, having no

sympathy with anarchy nor relationship to or personal interest in the defendants or any of them, and not being a socialist, communist or anarchist; but affiant has an interest as a citizen, in the due administration of the law, and that no injustice should be done under judicial procedure, and believes that jurors should not be selected with reference to their known views or prejudices. Affiant further says that his personal relations with said Ryce were at said time, and for many years theretofore had been most friendly and even intimate, and that affiant is not prompted by any ill will toward anyone in making this affidavit, but solely by a sense of duty and a conviction of what is due to justice.

Affiant further says that about the beginning of October, 1886, when the motion for a new trial was being argued in said cases before Judge Cary, and when, as he was informed, application was made before Judge Gary for leave to examine affiant in open court, touching the matters above stated, this affiant went upon request from State's Attorney Grinnell to his office during the noon recess of the court, and there held an interview with said Grinnell, Mr. Ingham and said Ryce, in the presence of several other persons, including some police officers, where affiant repeated substantially the matters above stated, and the said Ryce did not deny affiant's statements, and affiant said that he would have to testify thereto if summoned as a witness, but had refused to make an affidavit thereto, and *affiant was then and there asked and urged to persist in his refusal and to make no affidavit. And affiant further saith not.*

OTIS S. FAVOR.

Subscribed and sworn to before me this 7th day of November, A D. 1887.

JULIUS STERN,
Notary Public in and for said County.

So far as shown no one connected with the state's attorney's office has ever denied the statements of Mr. Favor, as to what took place in that office, although his affidavit was made in November, 1887.

As to Bailiff Ryce, it appears that he has made affidavit in which he denies that he made the statements sworn to by Mr. Favor, but unfortunately for him, the record of the trial is against him, for it shows conclusively that he summoned only the class of men mentioned in Mr. Favor's affidavit. According to the record 981 men were examined as to their qualifications as jurors, and most of them were either employers, or men who had been pointed out to the bailiff by their employer. The following, taken from the original record of the trial, are fair specimens of the answers of nearly all the jurors, except that in the following cases the court succeeded in getting the jurors to say that they believed they could try the case fairly notwithstanding their prejudice:

Examination of Jurors.

William Neil, a manufacturer, was examined at length; stated that he had heard and read about the Haymarket trouble, and believed enough of what he had so heard and read to form an opinion as to the guilt of the defendants, which he still entertained; that he had expressed said opinion, and then he added: "*It would take pretty strong evidence to remove the impression that I now have. I could not dismiss it from my mind; could not lay it altogether aside during the trial. I believe my present opinion, based upon what I have heard and read, would accompany me through the trial, and would influence me in determining and getting at a verdict.*"

He was challenged by the defendants on the ground of being prejudiced, but the court then got him to say that he believed he could give a fair verdict on whatever evidence he should hear, and thereupon the challenge was overruled.

H. F. Chandler: In the stationery business, with Skeen, Stuart & Co., said: "I was pointed out to the deputy sheriff by my employer to be summoned as a juror." He then stated that he had read and talked about the Haymarket trouble, and had formed and frequently expressed an opinion as to the guilt of the defendants, and that he believed the statements he had read and heard. He was asked:

Q. Is that a decided opinion as to the guilt of the the defendants?

A. It is a decided opinion, yes, sir.

Q. Your mind is pretty well made up now as to their guilt or innocence?

A. Yes, sir.

Q. Would it be hard to change your opinion?

A. It might be hard; I cannot say. I don't know whether it would be hard or not.

He was challenged by the defendants on the ground of being prejudiced. Then the court took him in hand and examined him at some length and got him to state that he believed he could try the case fairly. Then the challenge was overruled.

F. L. Wilson: Am a manufacturer. I am prejudiced and have formed an expressed opinion; that opinion would influence me in rendering a verdict.

He was challenged for cause, but was then examined by the court:

Q. Are you conscious in your own mind of any wish or desire that there should be evidence produced in this trial which should prove some of these men, or any of them, to be guilty?

A. Well, I think I have.

Being further pressed by the court he said that the only feeling he had against the defendants was based upon having taken it for granted that what he read about them was, in the main, true; *that he believed that sitting as a juror the effect of the evidence either for or against the defendants would be increased or diminished by what he had heard or read about the case.* Then, on being still further pressed by the court, he finally said: "Well, I feel that I hope that the guilty one will be discovered or punished, not necessarily these men."

Q. Are you conscious of any other wish or desire about the matter than that the actual truth may be discovered?

A. I don't think I am.

Thereupon the challenge was overruled.

George N. Porter, grocer, testified that he had formed and expressed an opinion as to the guilt of the defendants

and that this opinion, he thought, would bias his judgment; he would try to go by the evidence but that what he had read would have a great deal to do with his verdict; *his mind, he said, was certainly biased now, and that it would take a great deal of evidence to change it.* He was challenged for cause by the defendants; was examined by the court and said:

I think what I have heard and read before I came into court would have some influence with me, but the court finally got him to say he believed he could fairly and impartially try the case and render a verdict according to law and evidence, and that he would try to do so. Thereupon the court overruled the challenge for cause. Then he was asked some more questions by the defendants' counsel and among other things said:

Why, we have talked about it there a great many times and I have always expressed my opinion. *I believe what I have read in the papers; believe that the parties are guilty. I would try to go by the evidence, but in this case it would be awful hard work for me to do it.*

He was challenged a second time on the ground of being prejudiced; was then again taken in hand by the court and examined at length, and finally again said he believed he could try the case fairly on the evidence; when the challenge for cause was overruled for the second time.

H. N. Smith, hardware merchant, stated among other things that he was prejudiced and had quite a decided

opinion as to the guilt or innocence of the defendants, that he had expressed his opinion and still entertained it, and candidly stated that he was afraid he would listen a little more attentively to the testimony which concurred with his opinion than the testimony on the other side; that some of the policemen injured were personal friends of his. He was asked these questions:

Q. That is, you would be willing to have your opinion strengthened and hate very much to have it dissolved?

A. I would.

Q. *Under these circumstances do you think that you could render a fair and impartial verdict?*

A. *I don't think I could.*

Q. *You think you would be prejudiced?*

A. *I think I would be because my feelings are very bitter.*

Q. *Would your prejudice in any way influence you in coming at an opinion, in arriving at a verdict?*

A. I think it would.

He was challenged on the ground of being prejudiced; was interrogated at length by the court, and was brought to say he believed he could try the case fairly on the evidence produced in court. Then the challenge was overruled.

Leonard Gould, wholesale grocer, was examined at length; said he had a decided prejudice against the defendants. Among other things he said: "I really don't know

that I could do the case justice; if I was to sit on the case I should just give my undivided attention to the evidence and calculate to be governed by that." He was challenged for cause and the challenge overruled. He was then asked the question over again, whether he could render an impartial verdict based upon the evidence alone, that would be produced in court, and he answered: "Well, I answered that as far as I could answer it."

Q. You say you don't know that you can answer that either yes or no?

A. No, I don't know that I can.

Thereupon the court proceeded to examine him, endeavoring to get him to state that he believed he could try the case fairly upon the evidence that was produced in court, part of the examination being as follows:

Q. Now, do you believe that you can—that you have sufficiently reflected upon it—so as to examine your own mind, that you can fairly and impartially determine the guilt or innocence of the defendants?

A. That is a difficult question for me to answer.

Q. Well, make up your mind as to whether you can render, fairly and impartially render, a verdict in accordance with the law and the evidence. Most men in business possibly have not gone through a metaphysical examination so as to be prepared to answer a question of this kind.

A. Judge, I don't believe I can answer that question.

Q. Can you answer whether you believe you know?

A. If I had to do that I should do the best I could.

Q. The question is whether you believe you could or not? I suppose, Mr. Gould, that you know the law is that no man is to be convicted of any offense with which he is charged unless the evidence proves that he is guilty beyond a reasonable doubt?

A. That is true.

Q. The evidence heard in this case in court?

A. Yes.

Q. Do you believe that you can render a verdict in accordance with the law?

A. Well, I don't know that I could.

Q. *Do you believe that you can't—if you don't know of any reason why you cannot, do you believe that you can't?*

A. I can not answer that question.

Q. Have you a belief one way or other as to whether you can or can not? Not whether you are going to do it, but do you believe you can not? That is the only thing. You are not required to state what is going to happen next week or week after, but what do you believe about yourself, whether you can or can't?

A. I am about where I was when I started.

Some more questions were asked and Mr. Gould answered:

Well, I believe I have gone just as far as I can in reply to that question.

Q. This question, naked and simple of itself is, do you believe that you can fairly and impartially render a verdict in the case in accordance with the law and evidence?

A. I believe I could.

Having finally badgered the juror into giving this last answer, the court desisted. The defendants' counsel asked:

Do you believe you can do so uninfluenced by any prejudice or opinion which you now have?

A. You bring it at a point that I object to and I do not feel competent to answer.

Thereupon the juror was challenged a second time for cause, and the challenge was overruled.

James H. Walker, dry goods merchant, stated that he had formed and expressed an opinion as to the guilt of defendants; that he was prejudiced, and stated that his prejudice would handicap him.

Q. Considering all prejudice and all opinions that you have, if the testimony was equally balanced, would you decide one way or the other in accordance with that opinion or your prejudice?

A. If the testimony was equally balanced, I should hold my present opinion, sir.

Q. Assuming that your present opinion is, that you believe the defendants guilty, would you believe your present opinion would warrant you in convicting them?

A. I presume it would.

Q. Well, you believe it would; that is your present belief, is it.

A. Yes, sir.

He was challenged on the ground of prejudice.

The court then examined him at length, and finally asked:

Q. Do you believe that you can sit here and fairly and impartially make up your mind, from the evidence, whether that evidence proves that they are guilty beyond a reasonable doubt or not?

A. I think I could, but I should believe that I was a little handicapped in my judgment, sir.

Thereupon the court, in the presence of the jurors not yet examined, remarked:

Well, that is a sufficient qualification for a juror in the case—of course, the more a man feels that he is handicapped the more he will be guarded against it.

W. B. Allen, wholesale rubber business, stated among other things:

Q. I will ask you whether what you have formed from what you read and heard is a slight impression or an opinion, or a conviction?

A. *It is a decided conviction.*

Q. *You have made up your mind as to whether these men are guilty or innocent?*

A. *Yes, sir.*

Q. *It would be difficult to change that conviction, or impossible, perhaps?*

A. *Yes, sir.*

Q. It would be impossible to change your conviction?

A. It would be hard to change my conviction.

He was challenged for cause by defendants. Then he was examined by the court at length and finally brought to the point of saying that he could try the case fairly and impartially and would do so. Then the challenge for cause was overruled.

H. L. Anderson was examined at length and stated that he had formed and expressed an opinion, still held it, was prejudiced, but that he could lay aside his prejudices and grant a fair trial upon the evidence. On being further examined he said that some of the policemen injured were friends of his and he had talked with them fully. *He had formed an unqualified opinion as to the guilt or innocence of the defendants, which he regarded as deep-seated, a firm conviction that these defendants, or some of them, were guilty.* He was challenged on the ground of prejudice, but the challenge was overruled.

M. D. Flavin, in the marble business. He had read and talked about the Haymarket trouble and had formed and expressed an opinion as to the guilt or innocence of the defendants, which he still held and which was very strong; further, that one of the officers killed at the Haymarket was a relative of his, although the relationship was distant, but on account of this relationship his feelings were perhaps different from what they would have been, and occasioned a very strong opinion as to the guilt of the defendants, and that he had stated to others that he believed what he had heard and read about the matter. He was challenged on the ground of prejudice and then stated, in answer to a question from the prosecution, that he believed that he could give a fair and impartial verdict, when the challenge was overruled.

Rush Harrison, in the silk department of Edson, Keith & Co., was examined at length; stated that he had a deep-rooted conviction as to the guilt or innocence of the defendants. He said:

"It would have considerable weight with me if selected as a juror. It is pretty deep-rooted, that opinion is, and it would take a large preponderance of evidence to remove it; it would require the preponderance of evidence to remove the opinion I now possess. I feel like every other good citizen does. *I feel that these men are guilty; we don't know which; we have formed this opinion by general reports from the newspapers. Now, with that feeling, it would take some*

very positive evidence to make me think these men were not guilty, if I should acquit them; that is what I mean. I should act entirely upon the testimony; I would do as near as the main evidence would permit me to do. Probably I would take the testimony alone."

Q. But you say that it would take positive evidence of their innocence before you could consent to return them not guilty!

A. Yes, I should want some strong evidence.

Q. Well, if that strong evidence of their innocence was not introduced, then you want to convict them, of course?

A. Certainly.

He was then challenged on the ground of being prejudiced, when the judge proceeded to interrogate him and finally got him to say that he believed he could try the case fairly on the evidence alone; then the challenge was overruled.

J. R. Adams, importer, testified that he was prejudiced; had formed and expressed opinions and still held them. He was challenged on this ground, when the court proceeded to examine him at length, and finally asked him this question:

Q. Do you believe that your convictions as to what the evidence proved, or failed to prove, will be at all affected by what anybody at all said or wrote about the matter before?

A. I believe they would.

The court (in the hearing of other jurors not yet examined) exclaimed: "It is incomprehensible to me." The juror was excused.

B. L. Amés, dealer in hats and caps, stated that he was prejudiced; had formed and expressed opinions; still held them. He was challenged on these grounds. Then the court examined him at length; tried to force him to say that he could try the case fairly without regard to his prejudice, but he persisted in saying, in answer to the court's questions, that he did not believe that he could sit as a juror, listen to the evidence and from that alone make up his mind as to the guilt or innocence of the defendants. Thereupon the court, in the presence of other jurors not yet examined, lectured him as follows:

"Why not? What is to prevent your listening to the evidence and acting alone upon it? Why can't you listen to the evidence and make up your mind on it?"

But the juror still insisted that he could not do it, and was discharged.

H. D. Bogardus, flour merchant, stated that he had read and talked about the Haymarket trouble; had formed and expressed an opinion, still held it, as to the guilt or innocence of the defendants; that he was prejudiced; that this prejudice would certainly influence his verdict if selected a juror. *"I don't believe that I could give them a fair trial upon the proof, for it would require very strong proof to*

overcome my prejudice. I hardly think that you could bring proof enough to change my opinion." He was challenged on the ground of prejudice.

Then the court took him in hand and after a lengthy examination got him to say: "I think I can fairly and impartially render a verdict in this case in accordance with the law and the evidence."

Then the challenge was overruled.

Counsel for defendants then asked the juror further questions and he replied: "I say it would require pretty strong testimony to overcome my opinion at the present time; still, I think I could act independent of my opinion. I would stand by my opinion, however, and I think that the preponderance of proof would have to be strong to change my opinion. I think the defendants are responsible for what occurred at the Haymarket meeting. The preponderance of the evidence would have to be in favor of the defendants' innocence with me."

Then the challenge for cause was renewed, when the court remarked, in the presence of jurors not yet examined: "Every fairly intelligent and honest man when he comes to investigate the question originally for himself, upon authentic sources of information, will, in fact, make his opinion from the authentic source, instead of hearsay that he heard before.

The court then proceeded to again examine the juror, and as the juror persisted in saying that he did not believe

he could give the defendants a fair trial, was finally discharged.

These examinations are fair specimens of all of them, and show conclusively that Bailiff Ryce carried out the threat that Mr. Favor swears to. Nearly every juror called stated that he had read and talked about the matter and believed what he had heard and read, and had formed and expressed an opinion, and still held it, as to the guilt or innocence of the defendants; that he was prejudiced against them; that that prejudice was deep-rooted, and that it would require evidence to remove that prejudice.

A great many said they had been pointed out to the bailiff by their employers to be summoned as jurors. Many stated frankly that they believed the defendants to be guilty, and would convict unless their opinions were overcome by strong proofs; and almost every one, after having made these statements, was examined by the court in a manner to force him to say that he would try the case fairly upon the evidence produced in court, and whenever he was brought to this point he was held to be a competent juror, and the defendants were obliged to exhaust their challenges on men who declared in open court that they were prejudiced and believed the defendants to be guilty.

The Twelve who Tried the Case.

The twelve jurors whom the defendants were finally forced to accept, after the challenges were exhausted, were of the same general character as the others, and a number

of them stated candidly that they were so prejudiced that they could not try the case fairly, but each, when examined by the court, was finally induced to say that he believed he could try the case fairly upon the evidence that was produced in court alone. For example:

Theodore Denker, one of the twelve: "Am shipping clerk for Henry W. King & Co. I have read and talked about the Haymarket tragedy, and have formed and expressed an opinion as to the guilt or innocence of the defendants of the crime charged in the indictment. I believe what I read and heard, and still entertain that opinion."

Q. Is that opinion such as to prevent you from rendering an impartial verdict in the case, sitting as a juror, under the testimony and the law?

A. I think it is.

He was challenged for cause on ground of prejudice. Then the state's attorney and the court examined him and finally got him to say that he believed he could try the case fairly upon the law and the evidence, and the challenge was overruled. He was then asked further questions by the defendants' counsel, and said:

"I have formed an opinion as to the guilt of the defendants and have expressed it. We conversed about the matter in the business house and I expressed my opinion there; expressed my opinion quite frequently. *My mind was made up from what I read and did not hesitate to speak about it.*"

Q. Would you feel yourself in any way governed or bound in listening to the testimony and determining it upon the pre-judgment of the case that you had expressed to others before?

A. Well that is a pretty hard question to answer.

He then stated to the court that he had not expressed an opinion as to the truth of the reports he had read, and finally stated that he believed he could try the case fairly on the evidence.

John B. Greiner, another one of the twelve: "Am a clerk for the Northwestern railroad. I have heard and read about the killing of Degan at the Haymarket on May 4, last, and have formed an opinion as to the guilt or innocence of the defendants now on trial for that crime. It is evident that the defendants are connected with that affair from their being here."

Q. You regard that as evidence?

A. Well, I don't know exactly. Of course I would expect that it connected them or they would not be here.

Q. So, then, the opinion that you now have has reference to the guilt or innocence of some of these men, or all of them?

A. Certainly.

Q. *Now, is that opinion one that would influence your verdict if you should be elected as a juror to try the case?*

A. *I certainly think it would effect it to some extent; I don't see how it could be otherwise.*

He further stated that there had been a strike in the freight department of the Northwestern road, which affected the department he was in. After some further examination he stated that he thought he could try the case fairly on the evidence, and was then held to be competent.

G. W. Adams, also one of the twelve: "Am traveling salesman; have been an employer of painters. I read and talked about the Haymarket trouble and formed an opinion as to the nature and character of the crime committed there. I conversed freely with my friends about the matter."

Q. Did you form an opinion at the time that the defendants were connected with or responsible for the commission of that crime?

A. I thought some of them were interested in it, yes.

Q. And you still think so?

A. Yes.

Q. Nothing has transpired in the interval to change your mind at all, I suppose?

A. No, sir.

Q. You say some of them, that is, in the newspaper accounts that you read, the names of some of the defendants were referred to?

A. Yes, sir.

After further examination he testified that he thought he could try the case fairly on the evidence.

H. T. Sanford, another one of the twelve: Clerk for the Northwestern railroad, in the freight auditor's office.

Q. Have you an opinion as to the guilt or innocence of the defendants of the murder of Mathias J. Degan?

A. I have.

Q. From all that you have heard and that you have read, have you an opinion as to the guilt or innocence of the defendants of throwing the bomb?

A. Yes, sir; I have.

Q. Have you a prejudice against socialists and communists?

A. Yes, sir; a decided prejudice.

Q. Do you believe that that prejudice would influence your verdict in this case?

A. Well, as I know so little about it, it is a pretty hard question to answer. *I have an opinion in my own mind that the defendants encouraged the throwing of that bomb.*

Challenged for cause on the ground of prejudice.

On further examination, stated he believed he could try the case fairly upon the evidence, and the challenge for cause was overruled.

Upon the whole, therefore, considering the facts brought to light since the trial, as well as the record of the trial and the answers of the jurors as given therein, it is clearly

shown that while the counsel for defendants agreed to it, Ryce was appointed special bailiff at the suggestion of the state's attorney, and that he did summon a prejudiced jury which he believed would hang the defendants, and further, that the fact that Ryce was summoning only that kind of men was brought to the attention of the court before the panel was full, and it was asked to stop it, but refused to pay any attention to the matter, but permitted Ryce to go on and then forced the defendants to go to trial before this jury.

While no collusion is proven between the judge and state's attorney, it is clearly shown that after the verdict and while a motion for a new trial was pending, a charge was filed in court that Ryce had packed the jury, and that the attorney for the state got Mr. Favor to refuse to make an affidavit bearing on this point, which the defendants could use, and then the court refused to take any notice of it unless the affidavit was obtained, although it was informed that Mr. Favor would not make an affidavit, but stood ready to come into court and make a full statement if the court desired him to do so.

These facts alone would call for executive interference, especially as Mr. Favor's affidavit was not before the supreme court at the time it considered the case.

Recent Decision of the Supreme Court as to Competency of Jurors.

II.

The second point urged seemed to me to be equally conclusive. In the case of the People vs. Coughlin, known as the Cronin case, recently decided, the supreme court, in a remarkably able and comprehensive review of the law on this subject, says among other things:

"The holding of this and other courts is substantially uniform, that where it is once clearly shown that there exists in the mind of the juror, at the time he is called to the jury box, a fixed and positive opinion as to the merits of the case, or as to the guilt or innocence of the defendant he is called to try, his statement that notwithstanding such opinion he can render a fair and impartial verdict according to the law and evidence, has little, if any, tendency to establish his impartiality. This is so because a juror who has sworn to have in his mind a fixed and positive opinion as to the guilt or innocence of the accused is not impartial, as a matter of fact. * * *

"It is difficult to see how, after a juror has avowed a fixed and settled opinion as to the prisoner's guilt, a court can be legally satisfied of the truth of his answer that he can render a fair and impartial verdict, or find therefrom that he has the qualification of impartiality, as required by the constitution. * * *

"Under such circumstances it is idle to inquire of the jurors whether they can return just and impartial verdicts.

The more clear and positive were their impressions of guilt, the more certain they may be that they can act impartially in condemning the guilty party. They go into the box in a state of mind that is well calculated to give a color of guilt to all the evidence, and if the accused escapes conviction, it will not be because the evidence has not established guilt beyond a reasonable doubt, but because an accused party condemned in advance, and called upon to exculpate himself before a prejudiced tribunal, has succeeded in doing so. *

* * *

"To try a cause by such a jury, is to authorize men, who state that they will lean in their finding against one of the parties, unjustly to determine the rights of others, and it would be no difficult task to predict, even before the evidence was heard, the verdict that would be rendered. Nor can it be said that instructions from the court would correct the bias of the jurors who swear they incline in favor of one of the litigants. * * *

"Bontecou (one of the jurors in the Cronin case), it is true, was brought to make answer that he could render a fair and impartial verdict in accordance with the law and the evidence, but that result was reached only after a singularly argumentative and persuasive cross-examination by the court, in which the right of every person accused of crime to an impartial trial and to the presumption of innocence until proved guilty beyond a reasonable doubt, and the duty of every citizen, when summoned as a juror, to lay aside all opinions and prejudices and accord the accused such trial

was set forth and decanted upon at length, and in which the intimation was very clearly made that a juror who could not do this was recreant to his duty as man and a citizen. Under pressure of this sort of cross-examination, Bontecou seems to have been finally brought to make answer in such a way as to profess an ability to sit as an impartial juror, and on his so answering he was pronounced competent, and the challenge as to him was overruled. Whatever may be the weight ordinarily due to statements of this character by jurors, their value as evidence is in no small degree impaired in this case by the mode in which they were, in a certain sense, forced from the mouth of the juror. *The theory seemed to be that if a juror could in any way be brought to answer that he could sit as an impartial juror, that declaration of itself rendered him competent. Such a view, if it was entertained, was a total misconception of the law. * * **

"It requires no profound knowledge of human nature to know that with ordinary men opinions and prejudices are not amenable to the power of the will, however honest the intention of the party may be to put them aside. They are likely to remain in the mind of the juror in spite of all his efforts to get rid of them, warping and giving direction to his judgment, coloring the facts as they are developed by the evidence and exerting an influence more or less potent, though it be unconsciously to the juror himself, on the final result of his deliberations. *To compel a person accused of a crime to be tried by a juror who has prejudged his case is not to give him a fair trial. Nor should a defendant be*

compelled to rely, as his security for the impartiality of the jurors by whom he is to be tried, upon the restraining and controlling influence upon the juror's mind of his oath to render a true verdict according to the law and the evidence. His impartiality should appear before he is permitted to take the oath. If he is not impartial then, his oath can not be relied upon to make him so. In the terse and expressive language of Lord Coke, already quoted, the jury should 'stand indifferent as he stands unsworn.'"

Applying the law as here laid down in the Cronin case to the answers of the jurors above given in the present case, it is very apparent that most of the jurors were incompetent because they were not impartial, for nearly all of them candidly stated that they were prejudiced against the defendants and believed them guilty before hearing the evidence, and the mere fact that the judge succeeded, by a singularly suggestive examination, in getting them to state that they believed they could try the case fairly on the evidence, did not make them competent.

It is true that this case was before the supreme court, and that court allowed the verdict to stand, and it is also true that in the opinion of the majority of the court in the Cronin case an effort is made to distinguish that case from this one, but it is evident that the court did not have the record of this case before it when it tried to make the distinction, and the opinion of the minority of the court in the Cronin case expressly refers to this case as being exactly like that one, so far as relates to the competency of the

jurors. The answers of the jurors were almost identical and the examinations were the same. The very things which the supreme court held to be fatal errors in the Cronin case constituted the entire fabric of this case, so far as relates to the competency of the jury. In fact, the trial judge in the Cronin case was guided by the rule laid down in this case, yet the supreme court reversed the Cronin case because two of the jurors were held to be incompetent, each having testified that he had read and talked about the case and had formed and expressed an opinion as to the guilt of the defendants; that he was prejudiced; that he believed what he had read and that his prejudice might influence his verdict; that his prejudice amounted to a conviction on the subject of the guilt or innocence of the defendants, but each finally said that he could and would try the case fairly on the evidence alone, etc.

A careful comparison of the examination of these two jurors with that of many of the jurors in this case shows that a number of the jurors in this case expressed themselves, if anything, more strongly against the defendants than these two did, and what is still more, one of those summoned, Mr. M. D. Flavin, in this case, testified not only that he had read and talked about the case and had formed and expressed an opinion as to the guilt or innocence of the defendants, that he was bitterly prejudiced, but further, that he was related to one of the men who was killed, and that for that reason he felt more strongly against the defendants than he otherwise might, yet he was held to be competent

on his mere statement that he believed he could try the case fairly on the evidence.

No matter what the defendants were charged with, they were entitled to a fair trial, and no greater danger could possibly threaten our institutions than to have the courts of justice run wild or give way to popular clamor, and when the trial judge in this case ruled that a relative of one of the men who was killed was a competent juror, and this after the man had candidly stated that he was deeply prejudiced and that his relationship caused him to feel more strongly than he otherwise might, and when in scores of instances he ruled that men who candidly declared that they believed the defendants to be guilty; that this was a deep conviction and would influence their verdict, and that it would require strong evidence to convince them that the defendants were innocent, when in all these instances the trial judge ruled that these men were competent jurors, simply because they had, under his adroit manipulation, been led to say that they *believed* they could try the case fairly on the evidence, then the proceedings lost all semblance of a fair trial.

Does the Proof Show Guilt?

III.

The state has never discovered who it was that threw the bomb which killed the policemen, and the evidence does not show any connection whatever between the defendants and the man who did throw it. The trial judge in

overruling the motion for a new hearing, and again, recently in a magazine article, used this language:

"The conviction has not gone on the ground that they did have actually any personal participation in the particular act which caused the death of Degan, but the conviction proceeds upon the ground that they had generally, by speech and print, advised large classes of the people, not particular individuals, but large classes, to commit murder, and had left the commission, the time and place and when, to the individual will and whim, or caprice, or whatever it may be, of each individual man who listened to their advice, and that in consequence of that advice, in pursuance of that advice, and influenced by that advice, somebody not known did throw the bomb that caused Degan's death. Now, if this is not a correct principle of the law, then the defendants of course are entitled to a new trial. This case is without precedent; there is no example in the law books of a case of this sort."

The judge certainly told the truth when he stated that this case was without a precedent, and that no example could be found in the law books to sustain the law as above laid down. For, in all the centuries during which government has been maintained among men, and crime has been punished, no judge in a civilized country has ever laid down such a rule before. The petitioners claim that it was laid down in this case simply because the prosecution, not having discovered the real criminal, would otherwise not have

been able to convict anybody; that this course was then taken to appease the fury of the public, and that the judgment was allowed to stand for the same reason. I will not discuss this. But taking the law as above laid down, it was necessary under it to prove, and that beyond a reasonable doubt, that the person committing the violent deed had at least heard or read the advice given to masses, for until he either heard or read it he did not receive it, and if he did not receive it, he did not commit the violent act in pursuance of that advice; and it is here that the case for the state fails; with all his apparent eagerness to force conviction in court, and his efforts in defending his course since the trial, the judge, speaking on this point in his magazine article, makes this statement: "It is probably true that Rudolph Schnaubelt threw the bomb," which statement is a mere surmise and is all that is known about it, and is certainly not sufficient to convict eight men on. In fact, until the state proves from whose hands the bomb came, it is impossible to show any connection between the man who threw it and these defendants.

It is further shown that the mass of matter contained in the record and quoted at length in the judge's magazine article, showing the use of seditious and incendiary language, amounts to but little when its source is considered. The two papers in which articles appeared at intervals during years were obscure little sheets having scarcely any circulation and the articles themselves were written at times of great public excitement when an element in the community

claimed to have been outraged; and the same is true of the speeches made by the defendants and others; the apparently seditious utterances were such as are always heard when men imagine that they have been wronged or are excited or partially intoxicated; and the talk of a gigantic anarchistic conspiracy is not believed by the then chief of police, as will be shown hereafter, and it is not entitled to serious notice, in view of the fact that, while Chicago had nearly a million inhabitants, the meetings held on the lake front on Sundays during the summer by these agitators rarely had fifty people present, and most of these went from mere curiosity, while the meetings held indoors during the winter were still smaller. The meetings held from time to time by the masses of the laboring people must not be confounded with the meetings above named, although in times of excitement and trouble much violent talk was indulged in by irresponsible parties, which was forgotten when the excitement was over.

Again, it is shown here that the bomb was, in all probability, thrown by some one seeking personal revenge; that a course had been pursued by the authorities which would naturally cause this; that for a number of years prior to the Haymarket affair there had been labor troubles, and in several cases a number of laboring people, guilty of no offense, had been shot down in cold blood by Pinkerton men and none of the murderers were brought to justice. The evidence taken at coroners' inquests and presented here shows that in at least two cases men were fired on and killed when they were running away and there was conse-

quently no occasion to shoot, yet nobody was punished; that in Chicago there had been a number of strikes in which some of the police not only took sides against the men, but without any authority of law invaded and broke up peaceable meetings, and in scores of cases brutally clubbed people who were guilty of no offense whatever. Reference is made to the opinion of the late Judge McAllister in the case of the Harmonia Association of Joiners against Brenan et al., reported in the *Chicago Legal News*. Among other things Judge McAllister says:

“The facts established by a large number of witnesses and without any opposing evidence are, that this society, having leased Turner Hall, on West Twelfth street for the purpose, held a meeting in the forenoon of said day in said hall composed of from 200 to 300 individuals, most of whom were journeymen cabinet makers engaged in the several branches of the manufacture of furniture in Chicago, but some of those in attendance were the proprietors in that business or delegates sent by them. The object of the meeting was to obtain a conference of the journeymen with such proprietors or their authorized delegates with the view of endeavoring to secure an increase of the price or diminution of the hours of labor. The attendants were wholly unarmed and the meeting was perfectly peaceable and orderly, and while the people were sitting quietly with their backs toward the entrance hall, with a few persons on the stage in front of them, and all engaged merely in the business for which they had assembled, a force of from

fifteen to twenty policemen came suddenly into the hall, having a policeman's club in one hand and a revolver in the other, and making no pause to determine the actual character of the meeting, they immediately shouted: "Get out of here, you damned sons-of-bitches," and began beating the people with their clubs, some of them actually firing their revolvers. One young man was shot through the back of the head and killed. But to complete the atrocity of the affair on the part of the officers engaged in it, when the people hastened to make their escape from the assembly room, they found policemen stationed on either side of the stairway leading from the hall down to the street, who applied their clubs to them as they passed, seemingly with all the violence practicable under the circumstances.

"Mr. Jacob Beiersdorf, who was a manufacturer of furniture, employing some 200 men, had been invited to the meeting and came, but as he was about to enter the place where it was held, an inoffensive old man, doing nothing unlawful, was stricken to the ground at his feet by a policeman's club.

"These general facts were established by an overwhelming mass of testimony, and for the purpose of the questions in the case, it is needless to go farther into detail.

"The chief political right of the citizen in our government, based upon the popular will as regulated by law, is the right of suffrage, but to that right two others are auxiliary and of almost equal importance:

"1. The right of free speech and of a free press.

"2. The right of the people to assemble in a peaceable manner to consult for the common good.

"These are among the fundamental principles of government and guaranteed by our constitution. Section 17, article 2 of the bill of rights declares: 'The people have a right to assemble in a peaceable manner to consult for the common good, to make known their opinions to their representatives and apply for redress of grievances. Jurists do not regard these declarations of the bill of rights as creating or conferring the rights, but as a guarantee against their deprivation or infringement by any of the powers or agencies of the government. The rights themselves are regarded as the natural inalienable rights belonging to every individual, or as political and based upon or arising from principles inherent in the very nature of a system of free government.'

"The right of the people to assemble in a peaceable manner to consult for the common good being a constitutional right, it can be exercised and enjoyed within the scope and spirit of that provision of the constitution, independently of every other power of the state government.

"Judge Cooley, in his excellent work on 'Torts,' speaking (p. 296) of remedies for the invasion of political rights, says: 'When a meeting for any lawful purpose is actually called and held one who goes there with the purpose to disturb and break it up and commits disorder to that end, is a trespasser upon the rights of those who, for a time, have

control of the place of meeting. If several unite in the disorder it may be a criminal riot.' ”

So much for Judge McAlister.

Now, it is shown that no attention was paid to the judge's decision; that peaceable meetings were invaded and broken up and inoffensive people were clubbed; that in 1885 there was a strike at the McCormick Reaper factory on account of a reduction in wages and some Pinkerton men, while on their way there, were hooted at by some people on the street, when they fired into the crowd and fatally wounded several people who had taken no part in any disturbance; that four of the Pinkerton men were indicted for this murder by the grand jury, but that the prosecuting officers apparently took no interest in the case and allowed it to be continued a number of times, until the witnesses were sworn out, and in the end the murderers went free; that after this there was a strike on the West Division Street railway and that some of the police, under the leadership of Capt. John Bonfield, indulged in a brutality never equaled before; that even small merchants standing on their own doorsteps and having no interest in the strike were clubbed, then hustled into patrol wagons and thrown into prison on no charge and not even booked; that a petition, signed by about 1,000 of the leading citizens living on and near West Madison street, was sent to the mayor and city council, praying for the dismissal of Bonfield from the force but that on account of his political influence he was retained. Let me say here that the charge of brutality does

not apply to all of the policemen of Chicago. There are many able, honest and conscientious officers who do their duty quietly, thoroughly and humanely.

As a specimen of the many papers filed in this connection I will give the following, the first being from the officers of a corporation that is one of the largest employers in Chicago:

OFFICE PEOPLE'S GAS LIGHT AND COKE CO.,
CHICAGO, NOV. 21, 1885.

To the Chairman of the Committee, Chicago Trades and Labor Assembly:

Sir—In response to the request of your committee for information as to the treatment received by certain employes of this company at the hands of Captain Bonfield, and by his orders, during the strike of the Western Division Railway Company's employes in July last, you are advised as follows:

On that day of the strike, in which there was apparently an indiscriminate arresting of persons who happened to be up on Madison street, whether connected with the disturbance of peace or engaged in legitimate business, a number of employes of this company were at work upon said street near Hoyne avenue, opening a trench for the laying of gas pipe.

The tool box of the employes was at the southeast corner of Hoyne and Madison street. As the men assembled for labor shortly before 7 a. m., they took their shovels and tools from the tool box, arranged themselves along the trench preparatory to going to work when the hour of seven should arrive. About this time and a little before the men began to work a crowd of men, not employes of this company, came surging down the street from the west, and seizing such shovels and other tools of the men as lay upon the ground and about the box, threw more or less of the loose dirt, which before had been taken from the trench, upon the track of the railway company. About this time Captain Bonfield and his force appeared upon the

scene and began apparently an indiscriminate arrest of persons. Among others arrested were the following employes of this company: Edward Kane, Mike W. Kerwin, Dan Diamond, Jas. Hussey, Dennis Murray, Patrick Brown and Pat Franey. No one of these persons had any connection with the strike, or were guilty of obstructing the cars of the railway company, or of any disturbance upon the street. Mr. Kerwin had just arrived at the tool box and had not yet taken his shovel preparatory to going to work, when he was arrested while standing by the box and without resistance was put upon a street car as prisoner. When upon the car he called to a friend among the workmen, saying, "take care of my shovel." Thereupon Bonfield struck him a violent blow with a club upon his head, inflicting a serious wound, laying open his scalp, and saying as he did so, "I will shovel you," or words to that effect. Another of the said employes, Edward Kane, was also arrested by the tool box, two of the police seizing him, one by each arm, and he was being put upon the car, a third man, said by Kane and others to be Bonfield, struck him with a club upon the head, severely cutting his head. Both of these men were seriously injured and for a time disabled from attending to their business. Both of these men, with blood streaming from cuts upon their heads, respectively, as also all of the others above named, were hustled off to the police station and locked up. The men were not "booked" as they were locked up, and their friends had great difficulty in finding them, so that bail might be offered and they released. After they were found communication with them was denied for some time, by Bonfield's orders it was said, and for several hours they were kept in confinement in the lock-up upon Desplaines Street as criminals, when their friends were desirous of bailing them out. Subsequently they were all brought up for trial before Justice White. Upon the hearing the city was represented by its attorney, Bonfield himself being present, and from the testimony it appeared that all these men had been arrested under the circumstances aforesaid, and without the least cause, and that Kane and Kirwin had been cruelly assaulted and beaten without the least justification therefor, and of course they were all discharged.

The officers of this company who are cognizant of the outrages perpetrated upon these men, feel that the party by whom the same were committed ought not to remain in a responsible position upon the police force.

PEOPLE'S GAS LIGHT AND COKE CO.,
By C. K. G. Billings, V. P.

CHICAGO, Nov. 19, 1885.

ROBERT ELLIS, 974 West Madison street:

I kept a market at 974 West Madison street. I was in my place of business waiting on customers and stepped to the door to get a measure of vegetables. The first thing I knew, as I stood on the step in front of my store, I received a blow over the shoulders with a club and was seized and thrown off the sidewalk into a ditch being dug there. I had my back to the person who struck me, but on regaining my feet I saw that it was Bonfield who had assaulted me. Two or three officers then came up. I told them not to hit me again. They said go and get in the car, and I told them that I couldn't leave my place of business as I was all alone there. They asked Bonfield and he said, "Take him right along." They then shoved me into the car and took me down the street to a patrol wagon, in which I was taken to the Lake street station. I was locked up there from this time, about 8 o'clock in the morning, till 8 o'clock in the evening and then taken to the Desplaines street station. I was held there a short time and then gave bail for my appearance, and got back to my place of business about 9 o'clock that night. Subsequently when I appeared in court I was discharged. It was about 8 o'clock in the morning, July 3, 1885, when I was taken from my place of business.

ROBERT ELLIS.

W. W. WYMAN:

CHICAGO, Nov. 19, 1885.

I was standing in my door about 7 o'clock in the morning of July 3, 1885. I saw a man standing on the edge of the sidewalk. He wasn't doing anything at all. Bonfield came up to him, and without a word being said by either, Bonfield hit him over the head with his club and knocked him down. He also hit him twice after he had fallen. I was standing about six feet from them when the assault occurred. I don't know the man that was clubbed—never saw him before nor since.

W. W. WYMAN,
1004 West Madison Street.

JESSE CLOUD:

CHICAGO, Nov. 20, 1885.

On the morning of July 3, 1885, about 7 o'clock, as I was standing on the southeast corner of Madison street and Western avenue, I saw Bonfield walk up to a man on the opposite corner, who was apparently looking on at what was going on in the street. Bonfield hit him over the head with his club and knocked him down. Some men who were near him helped him over to the drug store on the corner where I was standing. His face was covered with blood from the wound on his head made by Bonfield's club, and he appeared to be badly hurt. A few moments later, as I was standing in the same place, almost touching elbows with another man, Bonfield came up facing us and said to us, "stand back," at the same time striking the other man over the head with his club. I stepped back and turned around to look for the other man; saw him a few feet away with the blood running down over his face, apparently badly hurt from the effect of the blow or blows he had received from Bonfield. There was no riot or disorderly conduct there at the time, except what Bonfield made himself by clubbing innocent people who were taking no part in the strike. If they had been there for the purpose of rioting they would surely have resisted Bonfield's brutality.

I affirm that the above statement is a true and correct statement of facts.

JESSE CLOUD, 998 Monroe street.

H. J. NICHOLS:

CHICAGO, Nov. 19, 1885.

On the morning of July 3, 1885, I was driving up Madison street, just coming from Johnson's bakery on Fifth avenue. When I got to the corner of Market and Madison streets, I met the cars coming over the bridge. On looking out of my wagon I saw Bonfield by the side of a car. He snatched me from my wagon and struck me on the head, cutting it open, and put me in a car, leaving my wagon standing there unprotected loaded with bakery goods, all of which were stolen, except a few loaves of bread. I was taken to the Desplaines street station and locked up for about ten hours. I was then bound over for riot in \$500 bail and released. During the time I was there I received no attention of any kind, though my head was seriously cut. Julius Goldzler, my

lawyer, went to Bonfield with me before the case was called in court, and told him I had done nothing, and Bonfield said, "scratch his name off," and I was released.

I swear to the truth of the above.

Signed,

H. J. NICHOLS,
47 Flournoy street.

The following is from Captain Schaack, a very prominent police official:

DEPARTMENT OF POLICE,
CITY OF CHICAGO.

CHICAGO, Ill., May 4, 1893.

Mr. G. E. DETWILER, Editor *Rights of Labor*:

Dear Sir: In reply to your communication of April 13, I will say that in July, 1885, in the street car strike on the west side, I held the office of lieutenant on the force. I was detailed with a company of officers early in the morning in the vicinity of the car barns, I believe on Western avenue and a little north of Madison street. My orders were to see that the new men on the cars were not molested when coming out of the barns.

One man came out and passed my lines about fifty feet. I saw one of the men, either driver or conductor, leave the car at a standstill. I ran up near to the car, when I saw on the southeast corner of the street Bonfield strike a man on the head with his club. He hit the man twice and I saw the man fall to the ground.

Afterwards I was put on a train of cars, protecting the rear. Bonfield had charge of the front. I saw many people getting clubbed in front of the train but I held my men in the rear and gave orders not to strike any one except they were struck first. Not one of my officers hurt a person on that day or at any time.

Many people were arrested, all appearing. From what I saw in the afternoon and the next day, no officer could state what they were arrested for. The officers professed ignorance of having any evidence, but "some one told them to take him in," meaning to lock him up. On that afternoon, about 4 o'clock, I met Bonfield and he addressed

me in the following words, in great anger: "If some of you goody-goody fellows had used your clubs freely in the forenoon, you would not need to use lead this afternoon." I told him that I did not see any use clubbing people and that I would club no person to please any one, meaning Bonfield, and that if lead had to be used, I thought my officers could give lead and take it also. I will say that affair was brutal and uncalled for.

MICHAEL J. SCHAAACK,
No. 227 N. State Street.

Again it is shown that various attempts were made to bring to justice the men who wore the uniform of the law while violating it, but all to no avail; that the laboring people found the prisons always open to receive them, but the courts of justice were practically closed to them; that the prosecuting officers vied with each other in hunting them down, but were deaf to their appeals; that in the spring of 1886 there were more labor disturbances in the city and particularly at the McCormick factory; that under the leadership of Capt. Bonfield the brutalities of the previous year were even exceeded. Some affidavits and other evidence is offered on this point which I can not give for want of space. It appears that this was the year of the eight hour agitation and efforts were made to secure an eight hour day about May 1, and that a number of laboring men standing, not on the street, but on a vacant lot, were quietly discussing the situation in regard to the movement, when suddenly a large body of police under orders from Bonfield charged on them and began to club them; that some of the men, angered at the unprovoked assault, at first resisted, but were soon dispersed; that some of the

police fired on the men while they were running and wounded a large number who were already 100 feet or more away and were running as fast as they could; that at least four of the number so shot down died, that this was wanton and unprovoked murder, but there was not even so much as an investigation.

Was it an Act of Personal Revenge?

While some men may tamely submit to being clubbed and seeing their brothers shot down, there are some who will resent it and will nurture a spirit of hatred and seek revenge for themselves, and the occurrences that preceded the Haymarket tragedy indicate that the bomb was thrown by some one who, instead of acting on the advice of anybody, was simply seeking personal revenge for having been clubbed, and that Capt. Bonfield is the man who is really responsible for the death of the police officers.

It is also shown that the character of the Haymarket meeting sustains this view. The evidence shows there were only 800 to 1,000 people present, and that it was a peaceable and orderly meeting; that the mayor of the city was present and saw nothing out of the way and that he remained until the crowd began to disperse, the meeting being practically over, and the crowd engaged in dispersing when he left; that had the police remained away for twenty minutes more there would have been nobody left

there, but that as soon as Bonfield learned that the mayor had left he could not resist the temptation to have some more people clubbed and went up with a detachment of police to disperse the meeting, and that on the appearance of the police the bomb was thrown by some unknown person and several innocent and faithful officers, who were simply obeying an uncalled for order of their superior, were killed; all of these facts tend to show the improbability of the theory of the prosecution that the bomb was thrown as the result of a conspiracy on the part of the defendants to commit murder; if the theory of the prosecution were correct there would have been many bombs thrown; and the fact that only one was thrown shows that it was an act of personal revenge.

It is further shown here that much of the evidence given at the trial was a pure fabrication; that some of the prominent police officials in their zeal, not only terrorized ignorant men by throwing them into prison and threatening them with torture if they refused to swear to anything desired, but that they offered money and employment to those who would consent to do this. Further, that they deliberately planned to have fictitious conspiracies formed in order that they might get the glory of discovering them. In addition to the evidence in the record of some witnesses who swore that they had been paid small sums of money, etc., several documents are here referred to.

First, an interview with Capt. Ebersold published in the *Chicago Daily News* May 10, 1889.

Chief of Police Ebersold's Statement.

Ebersold was chief of the police of Chicago at the time of the Haymarket trouble and for a long time before and thereafter, so that he was in a position to know what was going on and his utterances upon this point are therefore important. Among other things he says:

"It was my policy to quiet matters down as soon as possible after the 4th of May. The general unsettled state of things was an injury to Chicago.

"On the other hand, Capt. Schaack wanted to keep things stirring. He wanted bombs to be found here, there, all around, everywhere. I thought people would lie down and sleep better if they were not afraid that their homes would be blown to pieces any minute. But this man, Schaack, this little boy who must have glory or his heart would be broken, wanted none of that policy. Now, here is something the public does not know. *After we got the anarchist societies broken up, Schaack wanted to send out men to again organize new societies right away. You see what this would do. He wanted to keep the thing boiling, keep himself prominent before the public.* Well, I sat down on that, I didn't believe in such work, and of course Schaack didn't like it.

"*After I heard all that, I began to think there was perhaps not so much to all this anarchist business as they claimed, and I believe I was right.* Schaack thinks he knew all about those anarchists. Why, I knew more

at that time than he knows to-day about them. I was following them closely. As soon as Schaack began to get some notoriety, however, he was spoiled."

This is a most important statement, when a chief of police who has been watching the anarchists closely says that he was convinced that there was not so much in all this anarchist business as was claimed, and that a police captain wanted to send out men to have other conspiracies formed in order to get the credit of discovering them and keep the public excited, it throws a flood of light on the whole situation and destroys the force of much of the testimony introduced at the trial.

For if there has been any such extensive conspiracy as the prosecution claims, the police would have soon discovered it. No chief of police could discover a determination on the part of an individual, or even a number of separate individuals, to have personal revenge for having been maltreated, nor could any chief discover a determination by any such individual to kill the next policeman who might assault him. Consequently, the fact that the police did not discover any conspiracy before the Haymarket affair shows almost conclusively that no such extensive combination could have existed.

As further bearing on the question of creating evidence reference is made to the following affidavits:

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

Jacob Mikolanda, being first duly sworn, on oath states, that he took no part in the so-called May troubles of 1886; that on or about the 8th day of May, 1886, two police officers, without a warrant or without assigning any reasons therefor, took this affiant from a saloon, where he was conducting himself peacefully, and obliged him to accompany them to his house; that the same officers entered his house without a search warrant, and ransacked the same, not even permitting the baby's crib with its sleeping occupant, to escape their unlawful and fruitless search; that in about a month after this occurrence this affiant was summoned by Officer Peceny to accompany him to the police station, as Lieutenant Shepard wished to speak to me; that there without a warrant this affiant was thrown into jail; that he was thereupon shown some photographs and asked if he knew the persons, and on answering to the affirmative as to some of the pictures, he was again thrown into prison; that he was then transferred from one station to another for several days; that he was importuned by a police captain and assistant state's attorney to turn state's witness, being promised therefor money, the good will and protection of the police, their political influence in securing a position and his entire freedom; that on answering that he knew nothing to which he could testify, he was thrown back into jail; that his preliminary hearing was repeatedly continued for want of prosecution, each continuance obliging this affiant to remain longer in jail; that eventually this affiant was dismissed for want of prosecution.

JACOB MIKOLANDA.

Subscribed and sworn to before me this 14th day of April, A. D. 1893.

CHARLES B. PAVLICEK,
Notary Public.

STATE OF ILLINOIS, }
COUNTY OF COOK, } ss.

Vaclav Djmek, being first duly sworn, on oath states that he knows of no cause for his arrest on the 7th day of May, A. D. 1886; that he took no part in any of the troubles of the preceding days; that without a warrant for his arrest, or without a search warrant for his premises, the police entered the house on the night of the

7th day of May, 1886; that on being requested to show by what authority they entered, the police heaped abuse upon this affiant and his wife; that the police then proceeded to ransack the house, roused this affiant's little children out of bed, pulled the same to pieces, carried away this affiant's papers and pillow slips, because the same were red; that on the way to the police station, though this affiant offered no resistance whatever and went at the command of the officer peacefully, this affiant was choked, covered by revolvers and otherwise inhumanly treated by the police officers; that for many days this affiant was jailed and refused a preliminary hearing; that during said time he was threatened, and promised immunity by the police if he would turn state's witness; that the police clerk and officer Johnson repeatedly promised this affiant his freedom and considerable money if he would turn state's witness; that on his protestations that he knew of nothing to which he could testify, this affiant was abused and ill-treated; that while he was jailed this affiant was kicked, clubbed, beaten and scratched, had curses and abuses heaped upon him and was threatened with hanging by the police; that this affiant's wife was abused by the police when she sought permission to see this affiant.

VACLAV DJMEK.

Subscribed and sworn to before me this 14th day of April, A. D. 1893.

CHARLES B. PAVICEK,
Notary Public.

I will simply say in conclusion on this branch of the case that the facts tend to show that the bomb was thrown as an act of personal revenge, and that the prosecution has never discovered who threw it, and the evidence utterly fails to show that the man who did throw it ever heard or read a word coming from the defendants; consequently it fails to show that he acted on any advice given by them. And if he did not act on or hear any advice coming from the defendants, either in speeches or through the press, then there was no case against them even under the law as laid down by Judge Gary.

Fielden and Schwab.

At the trial a number of detectives and members of the police force swore that the defendant, Fielden, at the Hay-market meeting, made threats to kill, urging his hearers to do their duty as he would do his, just as the policemen were coming up, and one policeman swears that Fielden drew a revolver and fired at the police while he was standing on the wagon and before the bomb was thrown, while some of the others testified that he first climbed down off the wagon and fired while standing by a wheel. On the other hand, it was proven by a number of witnesses and by facts and circumstances that this evidence must be absolutely untrue. A number of newspaper reporters who testified on the part of the state said that they were standing near Fielden, much nearer than the police were, and heard all that was said and saw what was done; that they had been sent there for that purpose, and that Fielden did not make any such threats as the police swore to, and that he did not use a revolver. A number of other men who were near, too, and some of them on the wagon on which Fielden stood at the time, swear to the same thing. Fielden himself swears that he did not make any such threats as the police swore to, and further, that he never had or used a revolver in his life. But if there were any doubt about the fact that the evidence charging Fielden with having used a revolver is unworthy of credit, it is removed by Judge Gary and State's Attorney Grinnell. On November 8, 1887, when the question of commuting the death sentence as to Fielden

was before the governor, Judge Gary wrote a long letter in regard to the case in which, in speaking of Fielden, he among other things, says: *"There is in the nature and private character of the man a love of justice, an impatience at undeserved sufferings. * * * In his own private life he was the honest, industrious and peaceful laboring man. In what he said in court before sentence he was respectful and decorous. His language and conduct since have been irreproachable. As there is no evidence that he knew of any preparation to do the specific act of throwing the bomb that killed Degan, he does not understand even now that general advice to large masses to do violence makes him responsible for the violence done by reason of that advice. * * * In short, he was more a misguided enthusiast than a criminal conscious of the horrible nature and effect of his teachings and of his responsibility therefor."*

The states attorney appended the foregoing letter beginning as follows: "While endorsing and approving the foregoing statement by Judge Gary, I wish to add thereto the suggestion * * * that Schwab's conduct during the trial and when addressing the court before sentence, like Fielden's was decorous, respectful to the law and commendable. * * * It is further my desire to say that I believe that Schwab was the pliant, weak tool of a stronger will and more designing person. Schwab seems to be friendless."

If what Judge Gary says about Fielden is true; if Fielden has "a natural love of justice and in his private life was the honest, industrious and peaceable laboring man," then Fielden's testimony is entitled to credit, and when he says that he did not do the things the police charge him with doing and that he never had or used a revolver in his life, it is probably true, especially as he is corroborated by a number of credible and disinterested witnesses.

Again, if Fielden did the things the police charged him with doing, if he fired on them as they swear, then he was not a mere misguided enthusiast who was to be held only for the consequences of his teachings, and if either Judge Gary or State's Attorney Grinnell had placed any reliance on the evidence of the police on this point they would have written a different kind of a letter to the then executive.

In the fall of 1887 a number of the most prominent business men of Chicago met to consult whether or not to ask executive clemency for any of the condemned men. Mr. Grinnell was present and made a speech in which in referring to this evidence he said that he had serious doubts whether Fielden had a revolver on that occasion or whether indeed Fielden ever had one.

Yet in arguing the case before the supreme court the previous spring much stress was placed by the state on the evidence relating to what Fielden did at the Haymarket meeting and that court was misled into attaching great importance to it.

It is now clear that there is no case made out against Fielden for anything that he did on that night, and, as heretofore shown, in order to hold him and the other defendants for the consequences and effects of having given pernicious and criminal advice to large masses to commit violence, whether orally, in speeches or in print, it must be shown that the person committing the violence had read or heard the advice, for until he had heard or read it he did not receive, and if he never received the advice it can not be said that he acted on it.

State's Attorney on Neebe's Innocence.

IV.

At the conclusion of the evidence for the state the Hon. Carter H. Harrison, then mayor of Chicago, and Mr. F. S. Winston, then corporation counsel for Chicago were in the court room and had a conversation with Mr. Grinnell, the state's attorney in regard to the evidence against Neebe, in which conversation, according to Mr. Harrison and Mr. Winston, the state's attorney said that he did not think he had a case against Neebe and that he wanted to dismiss as to him, but was dissuaded from doing so by his associate attorneys, who feared that such a step might influence the jury in favor of the other defendants.

Mr. Harrison. in a letter, among other things, says: "I was present in the court room when the state closed its case. The attorney for Neebe moved his discharge on the ground that there was no evidence to hold him on. The

state's attorney, Mr. Julius S. Grinnell, and Mr. Fred S. Winston, corporation counsel for the city, and myself were in earnest conversation when the motion was made. *Mr. Grinnell stated to us that he did not think there was sufficient testimony to convict Neebe.* I thereupon earnestly advised him, as the representative of the state, to dismiss the case as to Neebe, and if I remember rightly he was seriously thinking of doing so, but on consultation with his assistants and on their advice he determined not to do so lest it would have an injurious effect on the case as against the other prisoners. * * * I took the position that such discharge being clearly justified by the testimony would not prejudice the case as to the others."

Mr. Winston adds the following to Mr. Harrison's letter:

MARCH, 21, 1889.

I concur in the statement of Mr. Harrison; I never believed there was sufficient evidence to convict Mr. Neebe, and so stated during the trial.

F. S. WINSTON.

In January, 1890, Mr. Grinnell wrote a letter to Gov. Fifer, denying that he had ever made any such statement as that mentioned by Mr. Harrison and Mr. Winston; also that he did believe Neebe guilty; that Mr. Harrison suggested the dismissal of the case as to Neebe, and further that he would not have been surprised if Mr. Harrison had made a similar suggestion as to others and then he says: "I said to Mr. Harrison at that time substantially that I was afraid that the jury *might not think the testimony presented in the case sufficient to convict Neebe, but that it was in their province to pass upon it.*"

Now, if the statement of Messrs. Harrison and Winston is true, then Grinnell should not have allowed Neebe to be sent to the penitentiary, and even if we assume that both Mr. Harrison and Mr. Winston are mistaken and that Mr. Grinnell simply used the language he now says he used, then the case must have seemed very weak to him. If, with a jury prejudiced to start with, a judge pressing for conviction, and amid the almost irresistible fury* with which the trial was conducted, he still was afraid the jury might not think the testimony in the case was sufficient to convict Neebe, then that testimony must have seemed very weak to him, no matter what he may now protest about it.

When the motion to dismiss the case as to Neebe was made, defendants' counsel asked that the jury might be permitted to retire while the motion was being argued, but the court refused to permit this, and kept the jury present where it could hear all that the court had to say, then when the argument on the motion was begun by defendants' counsel the court did not wait to hear from the attorneys for the state, but at once proceeded to argue the points itself with the attorneys for the defendants, so that while the attorneys for the state made no argument on the motion, twenty-five pages of the record are filled with the colloquy or sparring that took place between the court and the counsel for the defendants, the court in the presence of the jury making insinuations as to what inference might be drawn by the jury from the fact that Neebe owned a little stock in a paper called the *Arbeiter Zeitung* and had been seen there

although he took no part in the management until after the Haymarket troubles, it appearing that the *Arbeiter Zeitung* had published some very seditious articles with which, however, Neebe had nothing to do. Finally one of the counsel for the defendants said: "I expected that the representatives of the state might say something, but as your honor saves them that trouble, you will excuse me if I reply briefly to the suggestions you have made." Some other remarks were made by the court, seriously affecting the whole case, and prejudicial to the defendants, and then, referring to Neebe the court said:


"Whether he had anything to do with the dissemination of advice to commit murder is I think a debatable question which the jury ought to pass on." Finally the motion was overruled. Now, with all of the eagerness shown by the court to convict Neebe, it must have regarded the evidence against him as very weak, otherwise it would not have made this admission, for if it was a debatable question whether the evidence tended to show guilt, then that evidence must have been far from being conclusive upon the question as to whether he was actually guilty; this being so, the verdict should not have been allowed to stand, because the law requires that a man shall be proven to be guilty beyond a reasonable doubt before he can be convicted of a criminal offense. I have examined all of the evidence against Neebe with care and it utterly fails to prove even the shadow of a case against him. Some of the other defendants were guilty of using seditious language, but even this cannot be said of Neebe.

Prejudice or Subserviency of Judge.

V.

It is further charged with much bitterness by those who speak for the prisoners that the record of the case shows that the judge conducted the trial with malicious ferocity and forced eight men to be tried together; that in cross-examining the state's witnesses he confined counsel for the defense to the specific points touched on by the state, while in the cross-examination of the defendants' witnesses he permitted the state's attorney to go into all manner of subjects entirely foreign to the matters on which the witnesses were examined in chief; also that every ruling throughout the long trial on any contested point was in favor of the state, and further, that page after page of the record contains insinuating remarks of the judge, made in the hearing of the jury, and with the evident intent of bringing the jury to his way of thinking; that these speeches, coming from the court, were much more damaging than any speeches from the state's attorney could possibly have been; that the state's attorney often took his cue from the judge's remarks; that the judge's magazine article recently published, although written nearly six years after the trial, is yet full of venom; that, pretending to simply review the case, he had to drag into his article a letter written by an excited woman to a newspaper after the trial was over, and which therefore had nothing whatever to do with the case and was put into the

articles simply to create a prejudice against the woman, as well as against the dead and the living, and that, not content with this, he in the same article makes an insinuating attack on one of the lawyers for the defense, not for anything done at the trial, but because more than a year after the trial when some of the defendants had been hung, he ventured to express a few kind, if erroneous, sentiments over the graves of his dead clients, whom he at least believed to be innocent. It is urged that such ferocity or subserviency is without a parallel in all history; that even Jeffries in England contented himself with hanging his victims, and did not stop to berate them after they were dead.

These charges are of a personal character, and while they seem to be sustained by the record of the trial and the papers before me and tend to  that the trial was not fair, I do not care to discuss this feature of the case any farther, because it is not necessary. I am convinced that it is clearly my duty to act in this case for the reasons already given, and I, therefore, grant an absolute pardon to Samuel Fielden, Oscar Neebe and Michael Schwab this 26th day of June, 1893.

JOHN P. ALTGELD,
Governor of Illinois.

